Before the

Federal Communications Commission

Washington, DC 20554

In the Matter of	)	
	)	MM Docket No. 00-244
Definition of Radio Markets	)	

To: The Commission

COMMENTS OF RADIO NEWBURYPORT, LLC
IN RESPONSE TO PETITION FOR RULEMAKING

Radio Newburyport, LLC, (Commentator) hereby submits comments in the matter of the above referenced Notice of Proposed Rule Making. Radio Newburyport is licensee of AM radio station WNBP in Newburyport, Massachusetts.

The Commission expresses concern that its present "contours" method of computing the dimensions of radio markets produces results at odds with economic reality. At least two Commissioners have expressed a belief that diversity suffers when several ownership entities within one market operate under different license cap standards. Commentator is familiar with two of the markets cited as illustrative of the deficiencies inherent in the present system, Portland, Maine and Augusta, Maine. Finding no lack of diversity in either ownership or in the range of listening available in either city, Commentator opines that if the situations exemplified in Portland and Augusta represent the worst case distribution of the unintended consequences attached to the present rules, then little needs to be done to effect a continuing fulfillment of the wishes of Congress expressed in the Telecommunications Act of 1996.

In that legislation, Congress addressed, *inter alia*, the lack of viability in nearly half the nation's broadcast properties due to overly restrictive ownership laws. Restricting licensees to one AM and one FM station per market had the effect of creating an artificially high number of ownership entities, far more than the revenue in many markets could support. It was not lost on Members of Congress considering a remedy that stations below the line of viability were and would continue to be in a poor position to either serve the public interest or to contribute in a meaningful manner to the diversity of programming in the market.

It is not apparent to Commentator that the spirit of that legislation, the encouragement of diversity via the perfectly logical expedient of distributing the available licenses among an economically reasonable number of ownership entities, is undermined even in the markets showcased as prime examples of alleged harm to listeners caused by over consolidation of the airwaves.

Augusta, Maine is rated by Arbitron as the nation's 257th market, with a metro population of 96,700. There are three ownership entities for the 6 stations considered to be home to the area. The Augusta market's ratio of rated stations (17) to persons is one to 5700; in New York City the ratio is one station for 304,000.

Portland, Maine is rated by Arbitron as the nation's 163rd market, with a population of 219,800. It is perceived to be an above average revenue market. There are six ownership entities between the 20 stations considered home to the metro. With one station per 10,000 residents, Portland appears to have thirty times more diversity in radio than that found in the nation's largest market.

In neither situation is it apparent that the licenses are distributed among too few individual owners or that the listeners are shortchanged on the diversity of programming available. To the contrary, Commentator's experience in both markets leads to the conclusion that listeners in each of the cities have access to formats that would be impractical or impossible if the stations involved were forced to exist outside a consolidated environment. It's not clear how a revision to the rules leading to an increase in the number of ownership entities in each of these markets would contribute to any kind of diversity, provide a tangible benefit to the public, or enhance the collective financial well being of the market. The latter point is especially meaningful in times of economic slowdown, when radio advertising is oftentimes the first expense to be scuttled by area businesses.

Objection to the rules as presently written requires undue focus on the absolute number of stations under the control of one operator and an unwarranted assumption that an owner of multiple stations will somehow program five, six, or more stations with a singular political, sociological, or musical slant while wreaking dominance over the local advertising economy. Commentator senses none of that in the example markets of Portland and Augusta, and respectfully points out, as others have in carefully researched detail, that radio is at best a tertiary player in the advertising business.

As has been made obvious in the foregoing Augusta-Portland-New York comparisons, an accurate conclusion on economic reality or diversity cannot pivot on a single abstract, whether that is a numerical ratio or a count of the licenses under unified control. However noble a goal is diversity in programming, its attainment must be indexed against the underlying economic and population base available to support it. At the same time, arguments for or against undue domination of radio in the advertising community must be made with the medium in its proper perspective in relation to newspapers, television/cable, outdoor, print, direct mail, and the Internet.

Given the foregoing conclusions for two of the markets the Commission itself considers illustrative of a problem with the current "contour" methodology used in market definition computations, it is difficult for Commentator to believe the issues raised deserve the high priority suggested in the subject NPRM.

Today’s radio broadcasting industry enjoys unprecedented prosperity, due in no small measure to the substitution of free market forces for heavy-handed regulation. That the underlying system of rules establishing criteria for ownership entities fails in isolated instances to please all concerned is scant reason to move on to another complicated system as likely as not to have deficiencies of its own.

Commentator suggests delaying a final decision on this matter until the both the regulators and the regulated can gauge the effects of the present economic downturn and the arrival of radio from space. Only then will it be clearly discernable if today’s radio companies, as the result of the Commission’s “contours” method of computing the dimensions of radio markets, have truly been placed in a situation at odds with economic reality.

Respectfully submitted,
Radio Newburyport, LLC.

/s/ Robert F. Fuller February 26, 2001
Member